

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 2185 – SB 2200

April 11, 2018

SUMMARY OF ORIGINAL BILL: Establishes, for any municipality authorized by private act or under general law of this state to levy by ordinance a tax on the privilege of occupancy in a hotel, when the existing rate of such tax on the effective date of this act is less than the maximum amount that the municipality may levy under such private act or general law, that any increase in such tax by ordinance on and after the effective date of this act is expended on the promotion of tourism or tourism development.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENTS (016493, 017199): Amendment 016493 deletes all language after the enacting clause. Prohibits any occupancy privilege tax levied by a city or a county from exceeding five percent of the consideration charged to a transient by the hotel operator; however, authorizes any tax levied in excess of five percent on or before the effective date of this legislation to remain in full force and effect. Establishes that any city or county that levies an occupancy tax prior to the effective date of this legislation, and after the effective date reduces such rate to five percent or less by ordinance or resolution, such local jurisdictions are prohibited from levying an occupancy tax rate that is above five percent.

Upon the effective date of this legislation, any additional revenue collected by a county or municipality from an increase in the occupancy tax rate by ordinance or resolution passed by such county or municipality, must be spent on the promotion of tourism and tourism development.

Amendment 017199 effectively amends the bill as amended by amendment 016493, to establish that any increase in such tax by ordinance on or after the effective date of this act may be expended as desired by the respective local government, rather than being required to use such revenue solely on the promotion of tourism or tourism development.

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FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENTS:

Other Fiscal Impact – To the extent any municipality increases a hotel occupancy tax above the amount authorized by current law; there will be a permissive increase in local revenue. The extent and timing of any permissive increase in local revenue is dependent upon the future actions of local governing bodies and cannot be quantified with reasonable certainty.

Assumptions for the bill as amended:

- Under current law, pursuant to Tenn. Code Ann. § 67-4-1401(3), a municipality is defined as an incorporated city that has adopted home rule.
- This legislation expands the definition of municipality to include an incorporated city or town, county or county with a metropolitan form of government.
- Currently, pursuant to Tenn. Code Ann. § 67-4-1402(a)(1), each municipality in this state is authorized to levy by ordinance a privilege tax upon the privilege of occupancy in any hotel of each transient in an amount not to exceed five percent of the consideration charged by the operator.
- Pursuant to Tenn. Code Ann. § 67-4-1425(a), after May 12, 1988, any private act that authorizes a city or county to levy a tax on the privilege of occupancy of a hotel shall limit the application of such tax as follows:
 - A city shall only levy such tax on occupancy of hotels located within its municipal boundaries;
 - A city shall not be authorized to levy such tax on occupancy of hotels if the county in which such city is located has levied such tax prior to the adoption of the tax by the city; and
 - A county shall only levy such tax on occupancy of hotels located within its boundaries but outside the boundaries of any municipality that has levied a tax on such occupancy prior to the adoption of such tax by the county.
- This legislation authorizes a municipality to levy, modify, or repeal a hotel privilege tax by ordinance or resolution. Under current law, it is common for counties and cities to do so by act of the General Assembly, either by passing private acts to modify hotel privilege authority, enacting exceptions from Tenn. Code Ann. § 67-4-1425(a), or by specific authorizations in general law.
- Currently, pursuant to Tenn. Code Ann. § 67-4-1403, the proceeds received by a home-rule municipality from application of the occupancy tax must be designated and used for the purposes authorized in the ordinance levying the tax.
- According to TACIR's report, 44 of the 80 counties and 52 of the 76 cities authorized to levy lodging taxes are not required to earmark them under current law. Half of the other counties (18) and most of the other cities (19) must earmark at least some of their lodging tax revenue for tourism.
- Amendment 016493 deletes and replaces Tenn. Code Ann. § 67-4-1403, to establish that any incremental increase in revenue collected as a result of an increase in the occupancy tax rate, as applied after the effective date of this legislation, must be spent on the

promotion of tourism and tourism development; however, amendment 017199 deletes and replaces this language, effectively authorizing local governments to use such revenue as desired, rather than being required to use such revenue on the promotion of tourism and tourism development. This provision would apply to the expanded definition of municipality, as proposed by this legislation, and not just home-rule municipalities.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista M. Lee, Executive Director

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